

March 12, 2004

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Re: Docket No. R-1176 (Regulation CC)

Dear Ms. Johnson:

Our institution generally agrees with the proposed amendments. We have seen the American Bankers Association's *Proposed Amendments to Regulation CC* comment letter sent to you, and we also support the comments made in their letter. We are also specifically commenting on the following issues:

Color of Ink on Checks

The color of ink used by depositors on checks does not always appear on an image. A substitute check of this type of check would not be a legal equivalent of the original check, because it would not contain an accurate image of the front and back of the original check. We seek clarification under the final rule to state how these checks will be treated. Will a bank have an obligation to detect these checks at the time they are presented for deposit? Will a bank have an obligation to refuse to accept these checks? Will a bank have an obligation to detect these checks, so they are not converted to a substitute check? Will these checks just be allowed to proceed through the system undetected until a consumer files an expedited recredit claim? What rights will a non-consumer have for these types of checks?

Fraud Risks

The proposal states "A substitute check need not capture other characteristics of the check, such as watermarks, microprinting, or other physical security features that cannot survive the imaging process, or decorative images, in order to meet the accuracy requirement." We seek clarification regarding the rights and responsibilities of the bank of first deposit and the paying bank if the paying bank claims they could have detected a fraudulent check if the original check had been presented. Since the paying bank will have no expedited recredit claim rights under the Check 21 Act, will the paying bank be able to recover their loss from the bank of first deposit?

Thank you for the opportunity to comment on the proposed amendments to Regulation CC.

Sincerely,

Brad Muhlke,
Vice President
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